

OFFICE OF THE GENERAL COUNSEL
Division of Operations-Management

MEMORANDUM OM 89-61

June 5, 1989

TO: All Regional Directors, Officers-in-Charge
and Resident Officers

FROM: William G. Stack, Acting Associate General Counsel

SUBJECT: Deferral of Representation Case Processing
to AFL-CIO Article XXI Proceedings

This memorandum sets forth procedures to be followed pursuant to a new Board policy to defer formal processing of representation petitions to AFL-CIO Article XXI proceedings.

AFL-CIO Constitution Article XXI

At present, Casehandling Manual Sections 11050-11056 (Representation Proceedings) set forth a procedure for the suspension of formal action by the Board in the processing of representation petitions pending resolution under Article XX of the AFL-CIO Constitution of a "raid" by one affiliate on the "established bargaining relationship" of another affiliate. This memorandum does not affect the Article XX procedure.

Article XXI of the AFL-CIO Constitution is designed to resolve disputes between AFL-CIO affiliates which are engaged in competing initial organizing activities with respect to the same employee group. Pursuant to Article XXI, a program has been established by the AFL-CIO to mediate and, if necessary, arbitrate the competing claims within the AFL-CIO. Within the limitations set forth below, the Board's procedures will now make allowances for and give weight to this program.

Notification to the Region to Suspend Processing
in Representation Cases Involving Article XXI

It is only the "principal officer" of an AFL-CIO affiliate who has standing to invoke Article XXI. In order to minimize miscommunications, notification concerning the invocation of Article XXI proceedings will originate from the President of the AFL-CIO and will be directed to the Executive Secretary of the

Board. After such notification, the Office of the Executive Secretary will advise the Region to suspend formal processing of the case for a period not to exceed 40 calendar days, or until the Article XXI proceeding is concluded, whichever comes first. 1/ If an AFL-CIO affiliate which is a party to the representation proceeding requests the Region to suspend formal processing of the petition based on Article XXI, the Region should immediately forward the request to the Office of the Executive Secretary. Upon notification by the Office of the Executive Secretary, the Region must then notify the parties, in writing, of the suspension of formal processing. 2/

Resumption of the Formal Processing
of the Petition

When the Office of the Executive Secretary is advised of the conclusion of Article XXI proceedings within 40 calendar days, the Region will be informed that formal processing of the petition should resume.

In the event 40 calendar days elapse without such notification, the Region must notify the Office of the Executive Secretary and obtain advice as to further processing of the petition.

The above procedures will be included in Sections 11050-11056 of the Casehandling Manual.

Should you have any questions regarding this matter, please contact your Assistant General Counsel.

cc: NLREU

WGS
W. G. S.

- 1/ The customary nonformal investigation should be completed, however. If the investigation reveals that there is no basis for proceeding on the petition, the petition should be dismissed, absent withdrawal.
- 2/ The notification need state only that, pursuant to Board policy with respect to Article XXI, formal processing of the petition has been suspended for a period not exceeding 40 days, absent further communication from the Region.

MEMORANDUM OM 89-61

Distribution:
Regional - All Professionals